

Message Text

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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 8964

C O N F I D E N T I A L NEW DELHI 7173

FOLNG SENT FROM CALCUTTA DTD 30 MAY.

QUOTE: CALCUTTA 1206

E.O. 11652: GDS

TAGS: CASC, PFOR, IN

SUBJ: HARCOS/FLETCHER: LEGAL IMPLICATIONS

REF: A. NEW DELHI 7086

B. CALCUTTA

1. HARCOS/FLETCHER'S LAWYER DUDHWEWALA ADVISED CONSULAR OFFICER THAT CHIEF MINISTER AND CHIEF SECRETARY TO HAVE THE AUTHORITY TO DIRECT THE PUBLIC PROSECUTOR AND ADVOCATE GENERAL TO FOLLOW A PARTICULAR COURSE BUT HE NOTES THAT THE PUBLIC PROSECUTOR AT LEAST HAS ONLY BEEN ASKED FOR HIS OPINION REGARDING THE ACCEPTING OF A LESSER PLEA. THE OPINION WAS NEGATIVE AS HAS BEEN REPORTED PREVIOUSLY.

2. AT THIS STAGE, DUDHWEWALA ADVISES THAT THE QUICKEST, MOST ACCEPTABLE WAY FOR ALL THOSE INVOLVED IN THIS MATTER IN WEST BENGAL TO GET OFF THE HOOK IS "FOR THE CENTRAL GOVERNMENT TO WITHDRAW THE SANCTION FOR THE OFFICIAL SECRETS ACT TRIAL AGAINST HARCOS AND FLETCHER" WHICH THE GOWB HAD TO HAVE BEFORE PROCEEDING INITIALLY WITH THIS MATTER.

3. DUDHWEWALA HAS NO IDEA WHO IS SUPPORTING THE SPECIAL BRANCH AND PUBLIC PROSECUTOR IN OPPOSITION TO THE IMPLIED WISHES OF THE
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CHIEF MINISTER. HOWEVER, HE IS EMPHATIC IN POINTING OUT THAT THE

REQUEST BY THE PUBLIC PROSECUTOR TO TRANSFER THE CASE FROM JUDGE
CHAUDHURI TO ANOTHER BENCH HAD TO HAVE THE PERMISSION OF SOMEONE
IN THE GOVERNMENT SINCE THE STANDING COUNSEL WHO APPEARS FOR THE
GOVERNMENT IN HIGH COURT WOULD NOT DO SO WITHOUT WRITTEN
INSTRUCTIONS.
ROSSELOT UNQUOTE
SCHNEIDER

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